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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,267

07/11/2003

David Carl Drummond

MAC 490-9

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT

PAPER NUMBER

3754

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DELIVERY MODE

06/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/617,267	<b>Applicant(s)</b> DRUMMOND, DAVID CARL	
	<b>Examiner</b> Frederick C. Nicolas	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 7,9-16,20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species A: Figs. 1-13, claims 1-6,8,17-19 in the reply filed on 6/12/2009 is acknowledged.
2. Claims 7,9-16,20-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/12/2009.

### ***Specification***

3. The abstract of the disclosure is objected to because of legal language "means" throughout the abstract. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- Claim 8 recites the limitation "said threaded connector" in line 5. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6,8,17 are rejected under 35 U.S.C. 102(b) as being anticipated by Beauchamp 5,664,702.

Beauchamp discloses a positive pressure liquid transfer and removal system configured for manual operation by a hand and by a foot, for pumping liquid from a container (2) having at least a first aperture, to a destination (col. 1, ll. 61-67 onto col. 2, ll. 1-3), the positive pressure liquid transfer and removal system comprising: foot operable pump means (39) for pumping air into the container; a liquid delivery hose means (8) for delivering liquid from the container to the destination and having, in seriatim, a liquid intake section (49) having a liquid inlet and being insertable into liquid in the container such that the liquid inlet is in liquid receiving relation with the container, a fitting (9) for engaging the first aperture of the container in sealed relation, and a liquid transport hose section (17) having a liquid outlet end, with the liquid intake hose section and the liquid transport hose section in fluid communication one with the other; hand operable valve means (7) operatively mounted on the liquid delivery hose means, for controlling the flow of the liquid through the liquid delivery hose means; and, means for connecting the foot operable pump means in sealed air-delivery relation to the container, thereby permitting delivery of air from the foot operable pump means into the container, so as to thereby effect a positive air pressure in the container; wherein the positive air pressure in the container causes the liquid to flow from the container,

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through the liquid delivery hose means, and to the destination (col. 1, ll. 61-67 onto col. 2, ll. 1-3), an annular flange (25).

The device shown by Beauchamp will perform the method recited in claim 17 during normal operational use of the device.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beauchamp 5,664,702.

Beauchamp shows a fitting (9), an air inlet nozzle (43), a liquid receiving nozzle (12), a liquid outlet nozzle (7). Beauchamp lacks that the container being a conventional portable fuel container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Beauchamp's container with the conventional portable fuel container as noted by the applicant in claims 18 and 19, in order to dispense fuel from a conventional portable fuel container by means of a foot operated device.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wirt et al. 5,897,031, Wright 4,880,161, Forster 4,668,187,

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Greenwood 4,231,494, Ross 3,233,787, Mowbray 2,628,744 and Rowland 505,642

disclose other types of foot operated device.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Frederick C. Nicolas/  
Primary Examiner, Art Unit 3754